275043

International Shipbreaking Limited, L.L.C.

March 22, 2004

Docket Clerk
U.S. Department of Transportation Dockets
Room Pl-401
Department of Transportation
400 7th Street, SW
Washington, DC 20590-0001

Ms. Deborah Aheron
U.S. Department of Transportation
Maritime Administration
400 7th Street, SW
Washington, DC 20590-0001

Re: Docket number MARAD 2004-17166 - 8

Dear Sirs or Madams,

We have reviewed the draft Environmental Assessment dated February 20, 2004 prepared by the Louis Berger Group, Inc. and would like to share our thoughts with you.

- ***Page 5 Legal Framework: Selection of Scrapping Facilities.***

We believe that MARAD did not properly follow Congress' direction pursuant to 6 (c) (1) of the NMHA of 1994 for the following reasons:

1. MARAD ignored lower bids from other companies such as ourselves (violates the least cost to the government provision). MARAD is well aware that we bid $112 per ton on may 14, 2004 for these ships well before the Able UK contract was signed on July 25, 2004 at $144.65 per ton. In addition, MARAD asked us on December 4, 2003 to extend our pricing for an additional year, which we did on December 16, 2003;
2. MARAD chose a contractor who could not remove the vessels in a timely manner;
3. MARAD chose an inexperienced "Shipbreaking" contractor, thereby not giving consideration to worker safety and the environment. Able UK may have performed some past "marine structure" work, but to our knowledge there has been no shipbreaking performed at this facility.
4. MARAD chose a contractor with a "strawman" facility. The actual physical facility did not match the advertisement and there were no permits in place to start construction to meet the advertisement. Also, this facility may not have anything

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other than a mud seafloor bottom: This may be acceptable for rigs, but is questionable for vessels with deteriorated hulls.

5. MARAD did not minimize the geographic distance that the vessels must be towed by choosing to tow them over 4,600 miles. Also, the facility location places the final leg of the journey thru congested sea lanes and environmentally critical coastlines.

These mis-directions have shown that MARAD has a pre-disposition for foreign scrapping over domestic scrapping by choosing a more expensive option using a less experienced contractor that is farther away and that takes longer to remove the ships. This shows a clear pre-disposition, in violation of 6 (c) (1) of the NMHA of 1994.

- ***Page 9 Description of proposed Action Alternatives***

The logic that pervades this section creates an artificial "Hobson's choice' for the reader. One is led to believe that only the transfer of the vessels to Able UK is available and that choice is better than doing nothing. As described below, there are other alternatives available to MARAD; unfortunately they simply prefer to export the vessels. Ironically, since MARAD has so far been unsuccessful in exporting, they have taken no action as their alternative in order to support their flawed logic and less than accurate recitation of the facts.

- ***Page 15 No Action Alternative:***

Under the No Action Alternative, the nine obsolete NDRF vessels would remain moored at the JRRF *"until funding was available and/or they were disposed of via another cost effective, best value proposal made through the PRDA process, or through an invitation for bid."* Congress appropriated $31 million for fiscal year '03, a substantial amount of which is still unspent and they appropriated $16 million for '04, all of which is unobligated and unspent. In addition, MARAD has long had lower cost proposals in hand, yet they continue to not take any action in choosing other best value alternatives.

- ***Page 16 Domestic Disposal Facilities***

W know of six ship recycling facilities *currently* operating in the United States, four in Brownsville, TX, one in Philadelphia, PA and one in Norfolk, VA.. Of these facilities, four can take ships simultaneously, including our facility that can accommodate nine vessels simultaneously. All of these facilities have long met MARAD shipbreaking requirements and two have been operating under the more stringent Navy standards for "five years". Currently, our facility only has four vessels occupying space. With over 220 employees solely dedicated to shipbreaking. At their request, we have supplied MARAD with our capacity figures and diagram of our facility. Apparently, MARAD did not share this information with their consultant. We have attached this information to this letter for your benefit.

One area that perplexes us is the insistence that a ship disposal facility *"have the capacity to accommodate a number of ships simultaneously"*. While we mentioned above that four facilities can accommodate multiple vessels, these same facilities can also receive and dismantle vessels continuously. This cannot be said of Able UK. Once Able UK receives their vessels and closes the imaginary door to their storage area, they cannot receive additional vessels until the work is completed and the imaginary door is re-opened. The domestic facilities can receive vessels continuously and dismantle them simultaneously in a proven assembly line process. This is the ship disposal equivalent of walking and chewing gum at the same time.

- ***Page 23 section 3.3.3 Sediment***

We note with interest the last paragraph of this section that states *"Polychlorinated Biphenyls (PCBs) were recently reported in the James River in 2002 (The Daily Press, 2003). The source of the PCBs has not yet been determined."* One possible source could be the PCB contaminated paint covering the hulls on many of the vessels moored at the JRRF. We have tested six of the nine vessels awaiting departure to Able UK and three have tested positive for PCB contaminated paint in excess of 50 ppm. In fact, one of the vessels tested up to levels exceeding 3,200 ppm of PCBs in exterior superstructure paint. Apparently, MARAD does not test for PCBs in paint on their vessels. Nor does Able UK, which is mandated to ... *"remove solid items containing PCBs≥ 50ppm when such solid items are readily removable..."*, including "dried paints" as stated in the Enforcement Discretion letter dated May 22, 2003 (Exhibit A). The removal of PCB laden dried paint has been successfully completed by Navy ship disposal contractors on numerous vessels for many years.

- ***Page 33 section 3.8 Hazardous Materials and page 55 section 4.8.1 Vessel Surveys***

The sections describing PCBs make no mention of PCBs in paint. We find this curious since not only does the Enforcement Discretion letter specifically address this, the EPA has a testing protocol for determining the levels of PCBs in paint and MARAD requires domestic scrappers to test for PCBs in paint using this protocol. The reason this is so important is to prevent PCB contaminated scrap metal from being torch cut by shipyard workers and being used as a feedstock for steel mills who do not have the proper environmental permits, controls and processes in place to prevent the PCBs from entering the environment via smokestack emissions. The EPA (or to our knowledge the EA) has not inquired what steel mills will be buying the scrap steel, whether the mills have been notified of the potential for PCB and whether they that have the permits, controls and processes in place to destroy the PCBs. Even though the ship will be dismantled at Teeside, the PCBs will only be destroyed if they are smelted at an approved facility or removed prior to sale. It is noted that no steel mill or smelter in the US is willing to accept the PCB material. We must remove or landfill. (Note: we have installed our own smelter that will handle aluminum contaminated up to 499 ppm of PCBs).

- ***Page 43 Section 4.2 Air Quality***

This section makes no assessment of the effects on air quality of the improper smelting of PCB contaminated scrap metal referred to above. We would presume that this would qualify for assessment under EO12114.

- ***Page 51 Vessel Surveys***

We understand that Able UK representatives surveyed many if not all of the vessels for tow ability last summer. That is one of the reasons the *Canopus* was substituted for the *Marine Fiddler*. This information has not been provided in the Environmental Assessment. Since the contract allows for substitution of vessels based upon their ability to endure a 4,600 mile ocean tow, and we know certain of the remaining nine vessels are in unsuitable condition to make the tow, doesn't that result in the perverse result that only the worst condition vessels will remain in the JRRF? This completely undercuts the Environmental Assessment's conclusions on page 58 since certain of the vessels will never leave under the Able UK contract.

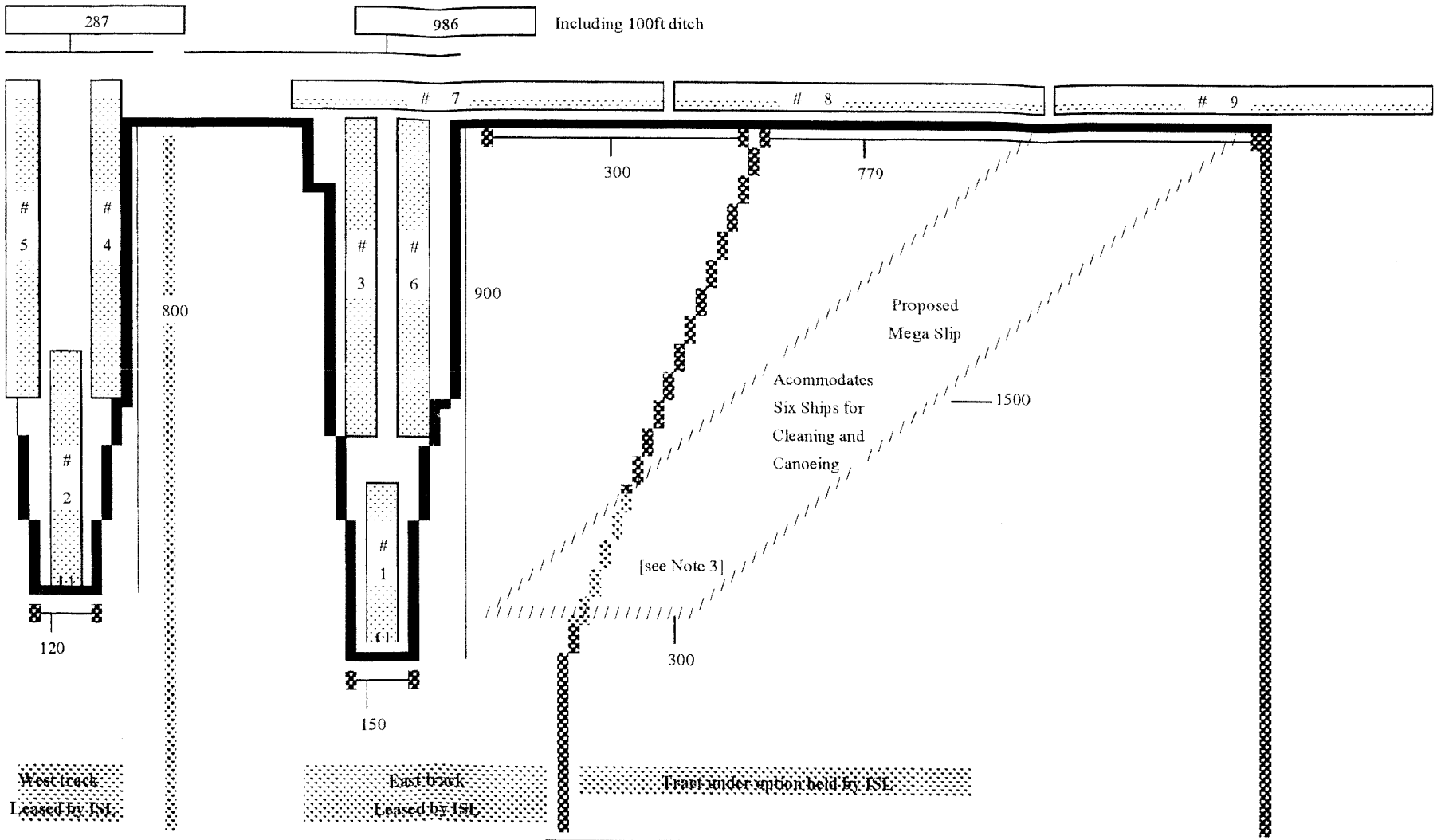
We trust these comments prove useful in providing an accurate and factual assessment of the history leading up to the award of this flawed contract and to an accurate assessment of the real environmental threats this contract results in. Please call me at 914-253-4940 if you have any questions.

Sincerely,

Kevin J. McCabe
Chairman

Facility Diagram

International Shipbreaking Limited, L.L.C.



CONFIDENTIAL INFORMATION

For Illustration Purposes

Diagram is not drawn to scale

Note: Ships represented by ship # with diagram representing ability to work on 9 ships at a time.

International Shipbreaking Limited LLC

Notes to Facility Diagram

1. ISL currently controls three tracks in the Port of Brownsville, the West Track, the East Track and the Option Track. The West Track contains a dismantling slip that is 800 feet in length and 270 feet in width at the mouth tapering to 120 feet in width at the ramp. The East Track contains a dismantling slip that is 900 feet in length and 350 feet in width at the mouth tapering to 150 feet in width at the ramp. The Option Property does not currently contain a slip. Each dismantling slip can accommodate three vessels at a time.

2. ISL also has permission from the Port of Brownsville to moor vessels along its frontage to the Ship Channel. ISL has enough frontage to position an additional three vessels where cleaning and other work can occur. Therefore, both slips and the frontage would allow for nine vessels to be stored at any point in time.

3. Were there enough demand for additional capacity, ISL could also install a third dismantling slip on the Option Property. This slip would be engineered to be 1,500 feet in length and 250 feet in width and would accommodate six vessels at any one time, increasing our capacity such that 15 vessels could be dismantled at any point in time.